

Data Processing Contract



Data Processing Contract (DPC) pursuant to Art. 28 EU General Data Protection Regulation

between the parties

MYCONVENTO CUSTOMER

**Controller – hereafter, the
Customer**

and

Convento GmbH
Oberstrasse 4
41460 Neuss
Germany

**Processor and Contractor –
hereafter, Convento**

Preamble

This Data Processing Contract (hereafter, DP Contract) specifies the obligations arising for the contract parties under data protection legislation due to the use by the Customer of the SaaS solution myconvento (www.myconvento.com) developed by Convento and the related services which Convento agrees to provide to the Customer. myconvento is a web-based tool for contact and content management, (multimedia) transmission, the dissemination of information, and the organization of campaigns and events.

This DP Contract applies to all activities of Convento in relation to the myconvento subscription purchased online by the Customer at www.myconvento.com and where employees of Convento or other parties commissioned by Convento may come into contact with personal data of the Customer. The term of this DP Contract is based on the subscription period.

In the event of any inconsistency between this DP Contract and the General Terms and Conditions or Data Protection Policy of Convento, this DP Contract shall take legal precedence over these other documents. However, any provisions contained in the General Terms and Conditions or the Data Protection Policy which are not set out in this DP Contract shall apply in addition to this DP Contract.

Section 1 Data Processing

(1) Convento shall process personal data of the Customer on the Customer's behalf within the scope of the subscription. All data shall be processed strictly for the purpose agreed between the Customer and Convento.

(2) "Data processing" or "processing" means the collection, storage, transmission, blocking, deletion, anonymization, encryption or any other use of personal data.

(3) The data shall be processed exclusively in the territory of the Federal Republic of Germany.

Section 2 Definitions

(1) Personal data

Personal data means any information about personal or factual circumstances of an identified or identifiable natural person. Specifically, it refers to address and communication data, fields of interest and topics of persons and the media or publishers related to them. Data subject groups usually include journalists, bloggers, other "influencers" or "stakeholders" of the customer.

(2) Data processing on behalf of a controller

Housing and hosting of the Customer database and the myconvento web application. Customer support for and throughout the use of myconvento. Optional maintenance of Customer data on behalf of the Customer. Monitoring and handling of Customer mailings.

(3) Instruction

Instruction means the written instruction, issued by the Customer to Convento, and directing the same to perform a specific action with regard to personal data (including, but not limited to, anonymization, blocking, deletion, making available) in accordance with data protection legislation.

Section 3 Scope and Responsibility

(1) Convento agrees to process personal data on behalf of the Customer. This includes such services as specified in the myconvento product description or any activities separately instructed by the Customer (such as data imports). The Customer is the “controller” of the personal data, as set out in Art. 4 no. 7 and Art. 24 of the EU General Data Protection Regulation (hereafter, GDPR). As such, it is responsible for compliance with applicable data protection legislation, and particularly, for the lawfulness of data transmissions to, and their processing by, Convento.

(2) Based on this responsibility, the Customer shall have the right to demand the rectification, deletion, blocking and making available of personal data throughout the subscription period and during and after this DP Contract.

(3) The contents of this DP Contract shall equally apply if testing or maintenance of automatic processes or of processing equipment is performed on behalf of the Customer and access to personal data in such context cannot be excluded.

Section 4 Obligations of Convento as Contractor and Processor

(1) Convento shall collect, process and use personal data strictly within the scope of the Customer’s instructions.

Convento does not generally maintain data for the Customer under a subscription and is not, therefore, required to keep detailed data processing records that enable the Customer to verify proper data processing. Convento shall process data only where so specifically instructed by the Customer, especially for data import and/or data export and in case of potential recovery of a specific backup requested by the Customer. In these cases, and only then, shall Convento keep data processing records. These shall detail in the context of a technical log report which Convento employee viewed or processed which data of which customer and when. Convento shall store this documentation for the long term.

(2) As a processor, Convento is required under Art. 30 (2) GDPR to maintain a record of all processing activities carried out on behalf of a controller. Convento shall make this record available to its customers on conclusion of this DP Contract (VVT-myconvento.pdf).

(3) Within the sphere of its responsibility, Convento GmbH shall implement internal safeguards and mechanisms that comply with all data protection requirements. Convento shall use appropriate technical and organizational measures (TOM) to adequately protect personal data of the Customer against misuse and loss in accordance with the provisions of applicable data protection legislation. These TOM shall be designed to:

a) deny unauthorized persons access to processing equipment used for processing (**equipment access control**),

b) prevent the unauthorized reading, copying, modification or erasure of data media (**data media control**),

c) prevent the unauthorized input of personal data and the unauthorized inspection, modification or deletion of stored personal data (**storage control**),

d) prevent the use of automated processing systems by unauthorized persons using data communication equipment (**user control**),

- e) ensure that persons authorized to use an automated processing system have access only to the personal data covered by their access authorization (**data access control**),
- f) ensure that it is possible to verify and establish the bodies to which personal data have been or may be transmitted or made available using data communication equipment (**transmission control**),
- g) ensure that it is subsequently possible to verify and establish which personal data have been input into automated processing systems and when and by whom the personal data were input or modified (**input control**),
- h) ensure that the confidentiality and integrity of personal data are protected during transfers of personal data or during transport of data media (**transport control**),
- i) ensure that installed systems may, in the case of interruption, be restored (**recovery**),
- j) ensure that all system functions perform and that the appearance of faults in the functions is reported (**reliability**),
- k) ensure that stored personal data cannot be corrupted by means of a malfunctioning of the system (**data integrity**),
- l) ensure that personal data processed on behalf of the controller can only be processed in compliance with the controller's instructions (**processing control**),
- m) ensure that personal data are protected against loss and destruction (**availability control**),
- n) ensure that personal data collected for different purposes can be processed separately (**separability**).

A detailed report on the implementation of these TOMs at Convento is attached hereto as "Appendix TOM" and shall be a component of this Contract.

(4) Convento shall ensure that any employees entrusted with processing the Customer's personal data have undertaken to comply with the principle of data secrecy in accordance with the provisions of Section 53 BDSG-new and have been duly instructed on the data protection regulations. This undertaking to secrecy shall continue after termination of the aforesaid activities. If the Customer is additionally bound by specific professional secrecy obligations (e.g. banking secrecy), it shall advise Convento thereof to ensure that these requirements are also observed by Convento, its employees and subcontractors.

(5) Convento shall provide the Customer with the contact details of its data protection officer.

(6) Convento shall promptly notify the Customer in case of serious disruption of operations, suspected personal data breach or other irregularities in the handling of the Customer's personal data.

(7) Convento shall assist the Customer in ensuring compliance with the obligations set out in Articles 32 through 36 GDPR on the security of personal data, duties of notification of data breaches, and data protection impact assessments. Convento may charge the Customer for any assistance required as a result of errors or mistakes of the Customer.

(8) The Customer shall retain title as to any carrier media provided to Convento as well as any copies or reproductions thereof. Convento shall store such media safely and protect them against unauthorized access by third parties. Convento shall be required at all times to provide the Customer with any information where the Customer's personal data and records are concerned. Convento shall destroy all test and substandard material in accordance with the data protection regulations where so

instructed by the Customer on an individual case basis. In specific cases to be determined by the Customer, the material shall be kept under lock and key or passed to the Customer.

(9) Subcontractors: Convento shall notify the Customer in advance if it intends to engage subcontractors that will be granted actual or potential access to the Customer's personal data. All subcontractors of Convento shall be obliged to comply with the privacy requirements and any other professional secrecy to be maintained (e.g. banking secrecy), and Convento shall ensure that its subcontractors comply with all applicable data protection regulations.

As the primary subcontractor to Convento, myloc managed IT AG is certified to ISO 27001 by the German Technical Inspection Agency (TÜV) in accordance with Art. 42 GDPR and each year verifies to Convento the maintenance of its certification. At the start of its collaboration with myloc managed IT AG, Convento satisfied itself of proper operational management at myloc in accordance with applicable data protection legislation. Convento has been provided with the names of contact persons at myloc (consultant, data protection officer), which may be made available to the Customer on request.

Section 5 Obligations of the Customer

(1) The Customer and Convento shall be jointly responsible for processing personal data in compliance with applicable data protection legislation.

(2) The Customer shall inform Convento immediately and fully of any non-compliance issues or irregularities in the data processing detected during an audit of the results.

(3) Pursuant to Art. 30 (1) GDPR, it is the responsibility of the Customer to maintain a record of processing activities.

(4) The Customer shall be responsible for ensuring compliance with the obligations set out in Articles 32 through 36 GDPR on the security of personal data, duties of notification of data breaches, and data protection impact assessments.

(5) The Customer shall specify, contractually or by instruction, the measures for the return of the data carriers provided to Convento and/or for the deletion of the personal data stored at Convento after termination of the contract.

(6) Any costs incurred due to the execution of separate, individual instructions of the Customer over and above the contracted scope of services shall be borne by the Customer.

Section 6 Inquiries Received by the Customer from Data Subjects

Where the Customer is obliged under applicable data protection legislation to provide information to an individual about the collection, processing or use of its personal data, Convento shall provide reasonable assistance to the Customer in making this information available.

As part of myconvento the Customer has access to various analyses enabling the tracking of information such as the origin and the change history of a personal data record or mailing list. Any analyses in addition to these must be requested in writing and may be charged.

Section 7 Audit Obligations

(1) Prior to the commencement of processing, and at regular intervals thereafter, the Customer shall audit the technical and organizational measures (TOM) taken by Convento, and shall document the resulting findings. For this purpose, the Customer may obtain information from Convento or conduct an on-site inspection. On request, Convento shall grant the Customer or an auditor mandated by the Customer unhindered access to its premises as needed for inspection purposes in accordance with Section 64 (3) no. 12 BDSG-new. Any on-site inspection shall be conducted within reasonable parameters without interrupting the business operations of Convento or myloc AG.

(2) Convento shall, upon the Customer's written request and within a reasonable period of time, provide the Customer with all information necessary for such audit.

Section 8 Subcontractors

(1) The Customer consents to Convento engaging affiliated companies or third parties for the purpose of subcontracting services in performance of its obligations hereunder. The transfer of assignments of Convento specified under Section 2 (2) to such subcontractors shall, however, require the prior written consent of the Customer.

(2) The Customer hereby gives its consent to the following subcontractors:

myLoc managed IT AG
Am Gatherhof 44
40472 Düsseldorf

(Data processing center certified to ISO 27001. myloc provides Convento with network access, security systems and the necessary server infrastructure, and assists Convento with regular data backups.)

Neko Netzwerk & Kommunikation
Jörg Raffael (owner)
Höhestr. 38
51399 Burscheid

(Mr. Raffael manages the email server of Convento (exchange server), which is physically separate from all other systems.)

Kamiwa GmbH
MD Kai Michael Wadsack
Further Strasse 110
41462 Neuss

(Mr. Wadsack assists us as a system architect, system administrator and database access developer.)

(3) Where Convento engages subcontractors, Convento shall provide that such subcontractors comply as well with its obligations under this DP Contract. In particular, this shall apply to the requirements of confidentiality, data protection, data security and any relevant professional secrecy (e.g. banking secrecy) between the parties hereunder. Convento shall therefore select its subcontractors carefully and monitor their quality regularly and consistently.

The rights of inspection and review of the Customer under Section 6 shall in this case also apply to any subcontractors. Upon written request, the Customer shall be informed by Convento about the main substance of the contract and the implementation of the data protection obligations at the subcontractor, including, where necessary, the inspection of relevant contract documents.

Section 9 Information Duties, Written Form Requirement, Choice of Law

(1) Where the Customer's data at Convento are at risk of search and seizure, an attachment order, confiscation, bankruptcy or insolvency proceedings, or similar events or measures by third parties, Convento shall inform the Customer thereof without undue delay. Convento shall immediately notify all parties pertinent in such action that the personal data affected by their measures are the sole property and at the sole disposition of the Customer as the controller within the meaning of the GDPR.

(2) Any changes and amendments to this DP Contract and to any of its elements, including any assurances by Convento, shall require a written agreement and an express indication that it is a change or addition to these conditions. This shall also apply to any waiver of this written form requirement.

(3) This DP Contract shall be governed by and construed in accordance with German law. The proper venue for any disputes arising out of or relating to the same shall be the courts located in Düsseldorf.

Section 10 Amendments to the DP Contract

Convento shall have the right to change or amend the DP Contract by giving one month's notice. Our user companies will be notified in writing of any changes or amendments and may object to them within one month from receipt of the notification. If no objection to the notified new terms and conditions is raised within this time, the new terms and conditions shall come into force. Otherwise, the previous DP Contract shall continue to apply to these user companies.

Section 11 Final Provisions

Oral side arrangements shall be deemed not to have been concluded. All changes and amendments to the contract shall be required in writing. This shall also apply to the waiver of written form. Should any individual provision or any part of any provision of the contract be or become illegal, void or unenforceable, the validity of the remaining provisions hereof shall in no way be affected. In such case, the parties hereto agree to replace the void and/or unenforceable provision or provisions by relative provisions coming as close as possible to the economic sense and purpose of this contract. This agreement and the entire legal relationship between the contracting parties shall be subject to the law of the Federal Republic of Germany.

In case of dispute, the user company shall agree to the engagement of a mediator to be appointed by the Chamber of Industry and Commerce for the Central Lower Rhine region (IHK Mittlerer Niederrhein). The cost of the mediator shall be borne equally by the parties. Should mediation fail to bring about a solution within one week, either side may take legal action. The venue for any claims arising from the user agreement shall be Düsseldorf.

Section 12 Formation of this DP Contract

This contract shall be formed without the signatures of the myconvento customer and Convento GmbH. It only requires a valid order of a myconvento subscription and acceptance of the current General Terms and Conditions of Convento GmbH.